HON'BLE SRI G.S. SINGHVI,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD.

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W.A. NO. 34 OF 2006.

BETWEEN:

Smt. Shaik Pathima Bee,

W/o John Saheb,

R/o Annapareddypale village,

Chandrugonda Mandal,

Khammam District,

And others.

…..

APPELLANTS.

AND

1. The District Collector, Khammam District,

and others.

….. RESPONDENTS.

:: JUDGMENT ::

Counsel for the appellants : Mr. Srinivasarao Bodduluri.

Counsel for respondents 1 to 3 : G.P. for Social Welfare.

Counsel for respondents 4 to 76 : Mr. P. Ravishanker.

24th JANUARY, 2006.

Per G.S. Singhvi, CJ

Having failed to persuade the learned Single Judge to issue a writ in the nature of mandamus to the respondents to assign the land in their favour out of Sy.No.24/1 and 250 admeasuring Ac.40.00 (approximate) situated in Pentlam village, Chandrugonda Mandal, Khammam district, the appellants have filed this appeal.

The appellants claim to be landless persons of Annapareddypale Village. They further claimed to be in possession of the land in question since 1959 on the basis of allotment made by Chairman, Zilla Parishad, Khammam. They applied for assignment of the land in their possession by contending that being landless persons they are entitled to assignment in accordance with the policy contained in G.O.Ms.No.41, Revenue (E) Department, dated 12-1-1971. In support of their assertion regarding possession, the appellants relied on Certificate dated 21-10-2005 issued by the Mandal Revenue Officer and pahanis allegedly issued in their favour in 1998-99.

On 26-6-2000, the appellants filed Writ Petition No.11214 of 2000 for

issuance of a mandamus to the official respondents to assign the land in their favour. In the counter-affidavit filed on behalf of the official respondents it was averred that the appellants are not in possession of the land. The added respondents also filed affidavit stating therein that they were in possession of the land and their names had been reflected in the pahanis. The learned Single Judge dismissed the writ petition by making the following observations:

> "11. The writ petitioners approached this Court with a specific assertion that they were in possession of the property as on the date of filing of the writ petition. Much argument has been advanced by the learned counsel appearing for the petitioners by placing reliance on the pahanies upto the year 1998-99. Whereas, the respondents No.4 to 76 placed reliance of the pahani commencing from the year 1999-2000. The pahanies placed on record issued by the Mandal Revenue Officer in respect of the year 2000-01 indicates that the respondents No.4 to 76 are in possession of the property. When the pahanies placed on record clearly disclose that the petitioners were not in possession of the property, more so, on the date of filing of the writ petition, the contention that the respondents 1 to 3 are trying to dispossess them has no substance. Admittedly the lands in question situate in Tribal Area and whereas the petitioners are not Tribals and the respondents 4 to 76 are tribals. The factum of possession of R-4 to R-76 over the land in question is supported by the entries in the pahanies patricks commencing from the year 1999-2000. Indeed when the petitioners filed contempt case being C.C.No.1365/2000 complaining disobedience of interim order passed in W.P.M.P.No.14230 of 2000, the said Contempt Case came to be dismissed on 25-11-2000. The order passed in the contempt case reads as under:
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> > "Nobody appears for the petitioners. This Court has directed that the petitioners should not be dispossessed from the land in question except through process of law. In the counter-affidavit it has been stated that the land claimed to be in possession of the petitioners is a land which falls in the schedule area and the petitioners are non-tribals and the land could not have been assigned to the petitioners. It is further stated that as the petitioners were not in possession of the said land at any point of time. Therefore, there is no question of evicting them from the land. In view of the stand taken by the respondents and in view of the fact that it is not being controverted by the petitioners, the contempt case is closed.""

Learned counsel for the appellants relied on G.O.Ms.No.41, dated 12.01.1971 and argued that the appellants, who are in possession since 1959, are entitled to assignment of land as of right notwithstanding the fact that they are non-tribals and the area in question is a tribal area. He then argued that the learned Single Judge

committed a serious error by dismissing the writ petition ignoring the fact that in terms of the policy decision taken by the State Government, non-tribal landless persons cannot be evicted from the tribal area.

In our opinion, there is no merit in the argument of the learned counsel. Admittedly the appellants are non-tribals and the land in question, of which they are seeking assignment, constitutes a part of the tribal area. Therefore, they are not eligible to be assigned or allotted the land or a part thereof. The policy contained in G.O.Ms.No.41 only protects the long possession of the landless poor sivai-jamadars. It does not postulate assignment or allotment of tribal area to non-tribals. Therefore, the learned single Judge did not commit any error by refusing to entertain the prayer made in the writ petition, and we do not find any valid ground to take a different view.

For the reasons afore-stated, the appeal is dismissed. No costs.

G.S. SINGHVI. CJ

G. BHAVANI PRASAD. J

Dated: 24.01.2006.

VRK/ svs

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HON'BLE SRI G.S. SINGHVI,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD.

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W.A.NO. 34 OF 2006.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

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Dt: 24-01-2006.

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